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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

March 15, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: PR Docket No. 93-61

Dear Sirs:

On behalf of CellNet Data Systems, I am herewith transmitting an original and four copies of its "Supplemental Comments" in the above-referenced proceeding. These Supplemental Comments are filed in response to the Public Notice DA 94-129.

Please do not hesitate to contact the undersigned with an questions concerning this filing.

Yours very sincerely,


Lawrence J. Movshin

cc (by messenger) (w/enc.):
Mr. Ralph Haller
Dr. Thomas Stanley
Mr. Richard Smith
Mr. John Borkowski
Mr. Richard Engelman
Mr. Michael Marcus

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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MAR 15 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

)
 Amendment of Part 90 of the
 Commission's Rules to Adopt
 Regulations For Automatic
 Vehicle Monitoring Systems)

PR Docket No. 93-61

RM-8013

To: The Commission

**SUPPLEMENTAL COMMENTS OF
 CELLNET DATA SYSTEMS**

CellNet Data Systems (formerly Domestic Automation Company) ("CellNet"), by its attorneys, hereby comments on ex parte presentations and proposals of PacTel Teletrac (PacTel) and Southwestern Bell Mobile Systems, Inc. (SBMS) in the above-referenced proceeding.^{1/} CellNet has been an active participant in this proceeding and therefore has a substantial interest in these new technical proposals for "reallocating" the band among and between narrowband and wide band systems.

For the reasons discussed below, CellNet remains convinced that the public interest will not be served by adoption of these or other alternatives that will encourage the proliferation of new Location and Monitoring Service (LMS)

^{1/} By Public Notice (DA 94-129, February 9, 1994) the Chief, Private Radio Bureau invited interested parties to comment on the issues raised by these ex parte filings on or before February 25, 1994. By Order, the Chief of the Private Radio Bureau extended the time for filing to March 15, 1994, and confirmed that all aspects of these ex parte proposals were at issue.

systems. CellNet recognizes and endorses the need to remove any implication that rules governing the use of the 902-928 MHz band for Automatic Vehicle Monitoring (AVM) systems are only "interim" in nature. However, the further expansion of licensed systems and services in this band does not serve the public interest.

As CellNet has previously discussed, the 902-928 MHz band has become a prime resource for the development of unlicensed wireless communications services and systems, including CellNet's data communications system. The CellNet™ system supports the data acquisition system monitoring and control requirements of the electric, gas, and water industries. It combines a high-performance, wide area network utilizing Multiple Address Systems licensed to the utilities industry and a low-powered Local Area Network employing microprocessor-based spread spectrum technology in the 902-928 MHz band. Taking advantage of changes to the rules governing spread spectrum techniques adopted by the Commission 1989 (in the Part 15 Rewrite proceeding, OET Docket 87-389), CellNet provides distributed two-way communications features incorporated into and accommodating several hundred end devices with a throughput of 19,200 bps and a range of nearly one-half mile.

CellNet has been consistent in opposing any expansion of the use of the 902-928 MHz band for new categories of licensed services. As we have earlier noted, this band has become a staple of the Part 15 manufacturing community, and has been the focal point for many advanced, non-licensed, low-power applications of wireless technology that have expanded the

nation's wireless telecommunications capabilities. The expansion of Part 15 uses was accomplished with the tacit encouragement of the Commission, and with the knowledge that some licensed uses, like AVM systems, might also co-exist. But the Commission's proposal in the notice, and the further "refinements" set forth in the PacTel and SBMS ex parte presentations, go well beyond giving permanent status to AVM services. They instead open the band to an array of wide band and narrowband LMS applications that are certain to impact the band's viability for low-power Part 15 applications. That is neither fair nor in the public interest; these approaches should again be rejected.

In an effort to protect its own operations and reduce potential competition,^{2/} PacTel now proposes to "give back" the 918-926 MHz portion of the band that was suggested for wide band LMS systems. Instead, it proposes to reserve the 902-912 MHz for wide band systems, to be shared by the first and all subsequent systems. PacTel gratuitously suggests that this approach will "improve" the environment for Part 15 devices," a suggestion with which CellNet does not agree.

SBMS takes a different and almost mutually exclusive approach. It proposes to limit wide band systems to four discrete 4 MHz channels, dispersed throughout the band. Unlike PacTel, which would appear to reserve the 918-926 MHz for non-

^{2/} Given its virtual dominance of the AVM market, most of Teletrac's existing and planned systems would almost certainly be advantaged by its proposal to expand its licensed area and protect the first two systems in any market from interference by a later constructed system.

AVM/LMS uses, SBMS appears to allocate the entire band,^{3/} including the middle portion, which is not yet available today, for either narrowband or wide band LMS applications.

Nevertheless, like PacTel, SBMS also acknowledges its opponents by suggesting that its AVM/LMS system "should be able to coexist with primary users of the 902-928 MHz band as well as with Part 15 products that currently occupy the band."

Significantly, neither SBMS nor PacTel discusses one of CellNet's prime objections to the proposal -- that the Commission would establish a broad class of eligible services and systems in the 902-928 MHz band under the umbrella of "LMS," which goes beyond the development of permanent AVM rules. The record still fails to justify the broad expansion of the use of this band, from automatic vehicle monitoring to a variety of new and unknown services that might fit the definition of "location" and "monitoring."

It is also unclear whether Pactel's proposal for the "shared" use of the band by the two AVM systems will avoid the interference from and to the existing and future Part 15 equipment. And if such circumstances become prevalent, it is almost certain that AVM licensees such as PacTel and SBMS will demand that the Part 15 user either remedy the interference problem or discontinue operating the Part 15 device. Indeed, as

^{3/} PacTel doesn't even addresses the remaining portions of the band, so it is virtually impossible to determine its position on the allocation proposed for narrowband AVM systems in the Notice. But the Commission proposed to allocate the balance of the band to narrowband systems, virtually squeezing the Part 15 users out of the band.

PacTel makes clear, the shared use of the 902-912 MHz band as it proposes could make that part of the band virtually unusable by any other system. SBMS' approach is much bolder, urging that each of the four AVM/LMS systems should have exclusive, interference-free use of one of the proposed 4 MHz slots, disregarding the existence of Part 15 devices. Both proposals will further degrade the band's use for Part 15 purposes, and make any newly-licensed AVM systems particularly susceptible to interference from the variety and number of Part 15 products that have been developed over the past five years in this part of the band.

In short, neither PacTel's nor SBMS' proposal is the panacea for the problems created for Part 15 manufacturers by the Notice of Proposed Rulemaking (FCC 93-141, released April 9, 1993) in this proceeding. These are simply new efforts by the proponents of AVM/LMS expansion to extend the use of the 902-928 MHz band beyond the limited AVM purposes, for which the rules have been in place since the 1970's. As CellNet has consistently urged, the record does not support the need for expanding the licensed uses in this particular band. Neither PacTel nor SBMS have ameliorated the significant adverse effects that such action would have on current and future use of the band by users of Part 15 devices and systems that provide no lesser public benefits.^{4/}

^{4/} While the opportunity to comment on these "new" proposals is welcomed, the foregoing analysis demonstrates that the Commission may not view these proposals in a vacuum. Indeed, they do not even purport to address the full scope of the issues identified by the Commission in the Notice.
(continued...)

In fact, the current balance between Part 15 designers and the licensees of AVM systems is generally working. Other than giving the AVM industry the certainty of permanency of rules that have been in effect for nearly 15 years, no further expansion of the eligibility or uses of the band is necessary or appropriate at this time.

Respectfully submitted,

CELLNET DATA SYSTEMS

By: 

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Dated: March 15, 1994

^{4/} (...continued)

If the Commission believes that something beyond the grant of permanent status to the current rules is appropriate, and either one of these effectively mutually exclusive technical "solutions" at least to the "wideband" AVM issues is to be favored, the agency must give interested parties adequate notice, for example in a Further Notice of Proposed Rulemaking, as to which proposal it intends to adopt and what the impact of that proposal will be on the balance of the allocation of the band initially proposed in the Notice. Anything short of a full public hearing on any substantive change to the initially proposed rules will clearly deny interested parties their administrative rights and should be rejected.

CERTIFICATE OF SERVICE

I, Abby Gurewitz, an employee of Wilkinson, Barker, Knauer & Quinn, hereby certify that on this 15th day of March, 1994, copies of the foregoing "Supplemental Comments" were served via first class, United States mail, postage prepaid, on the following:

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